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Judges have a very special status in the justice system and, as such, are subject to a number of restrictions. Public trust in the judiciary is a matter of fundamental importance and priority for an effective judicial system. A number of factors, including unfair or uninformed criticism, or simply the lack of understanding for the role of the courts, may work in an exactly opposite direction and undermine the respect for and the trust of the public in the judiciary.

The journalists' vocation involves not only rights, but also responsibilities. The right to the presumption of innocence, the right to fair trial, and respect for private and family life are the basic prerequisites that must be recognised in a democratic society. Media must be responsible to the society; however, fierce competition between the media places an increased pressure on the journalists to obtain prompt information at the expense of in-depth analysis and research. Many journalists lack relevant experience in the legal field, and do not give enough time to the research for and preparation of their reports. A very fragile relationship between the freedom of expression and the right of citizens to objective information is a chronic problem, in particular where the growing competition and commercialisation in the media sector pushes the media towards standardisation and search for sensational news; it often results in placing a disproportionate and non-objective emphasis on crime and violence.

In view of this situation, it is difficult to reconcile the responsibilities of judges with the objectives of the media. Relations between the judiciary and the media have been typically marked by a certain tension; judges themselves may not be always properly trained for dealing with the media, and are traditionally disinclined towards them.

The quality of justice improves if the citizens receive accurate information and understand the workings of the justice system. The reports prepared by journalists and published through the media represent the main and the most important source of news and comments about the court system and are the only contact with the practical functioning of the law for most people.

In order to reach a balance between judges and the judiciary on the one hand, and the media on the other hand, the Slovak Republic has chosen the road of ensuring good and objective communication through setting up the institution of court spokespersons. This role should be performed by active, informed judges, possessing communication skills and enjoying authority among fellow judges. Functions of spokespersons are created within all regional and district courts. In Slovakia, there are a total of 54 district courts, 8 regional courts, 1 higher military court, 3 military circuit courts, a special court, and the Supreme Court. The role of spokespersons is currently performed by 78 judges of individual courts, except for the Supreme Court, where this function has been entrusted to the director of the President's office. The Ministry of Justice has issued an instruction for court spokespersons, which contains guidelines for contacts with the media, and sets out the rights and responsibilities of spokespersons. Court spokespersons undergo regular training on contacts with general public and the media, organised by the Ministry of Justice. Responsibility for securing communication with the public lies with the management of each court.

The judge who hears a case offers information only in exceptional situations – if there is no other possibility to obtain information, or if the judge volunteers information himself – this, however, can only be general information concerning organisational and technical matters (such as the date of the hearing, type of the decision, etc.). Judges do not make comments on pending cases (Section 30 paragraph 11 of Act No. 385/2000 Coll. on Judges and Lay Judges lays down the obligation of judges to refrain from publicly speaking out their views concerning cases that are pending before courts.)

Journalists are guaranteed access to the court building if they want to take part in the proceedings, or if they have a meeting with a judge or with members of the administrative apparatus of the court. In case of hearings expected to raise a greater media interest, representatives of the media are recommended to inform the presiding judge of the panel or the court spokesperson about their intention to attend the hearing (at least one day ahead or before the start of the hearing) and use certain equipment (such as tape recorders, cameras or camcorders). In such case, the presiding judge of the panel, in cooperation with court management, secures the presence of the media at the hearing and creates adequate conditions for their work.

All judges are assigned certain courtrooms for the duration of the year. In case of an increased interest of the media, the presiding judge of the panel is obliged, wherever possible, to switch the courtroom for a larger one. If the number of media representatives is higher than the holding capacity of the courtroom, the court follows pre-established rules which are accessible, understandable and clearly defined in advance, such as drawing lots, agreement between media representatives, accreditation of media representatives within a certain deadline, etc.

It is forbidden to use mobile phones in the courtroom. Depending on their actual situation, courts may also designate certain other court premises where it is not possible to use mobile phones.

Section 34 paragraph 6 of Act No. 385/2000 Coll. on Judges and Lay Judges provides that facial representations or places of residence of judges can only be published with their express consent. This applies also to family members of judges, where it is necessary for effective protection of the judge and his or her family, subject to the agreement of family members. Judges are also entitled to adequate secrecy of data concerning their person and their families.

The right to make audio recordings from public hearings is part of the standard that is applied in the Slovak Republic to guarantee the freedom of expression and the right to information in accordance with Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

It is thus possible to make audio recordings during a hearing, although the presiding judge may restrict the area where audio recordings can be made so as not to disturb the course of the hearing or prejudice the purpose of the hearing (e.g. witness testimonies). However, the right to make an audio recording does not automatically imply the right to use the recording in any manner, and/or disseminate it without restriction.

According to Section 30 paragraph 3 of Act No. 385/2000 Coll. on Judges and Lay Judges, the judge who conducts the hearing decides on whether it is possible to make video recordings, video transmissions or audio recordings during the hearing. A distinction should be made between an audio recording and audio transmission (the use of the audio recording). The use of tape-recorders, cameras or camcorders must be allowed by the judge who conducts the hearing.

Media are permitted to take background pictures outside of the courtroom in agreement with the spokesperson, the president of the court, or the presiding judge of the panel. There may be certain areas of the courtroom that are prohibited for image recording and viewing purposes.

The right to the freedom of expression also includes the freedom to hold opinions, and to receive and impart information or ideas without interference, but it also includes rights and responsibilities connected with the exercise of these freedoms. It is necessary to respect the right

of individuals to the protection of their legitimate interests (such as protection of personality, etc.). The thin line between the freedom of expression and personal rights of the persons concerned cannot be determined in a general manner, and it varies in each individual case.

The courts are recommended to give the media the broadest possible space for their work, within the limits set by the law, and not to restrict that space without reason. Where free regime applies (like, for instance, to audio recordings), the judge only guides the exercise of the rights. A distinction must be made between the regime during a public hearing, and the regime outside of the hearing room (in other courthouse premises, outside of the courthouse), where it is necessary to respect the internal rules of the court, and customary and general rules of the media.

All the above rights can be exercised except in cases where the public is excluded from attending the hearing or its part.

If a court sets out specific and separate rules (concerning the use of technical equipment such as mobile phones, taking pictures of court premises, choosing media in case of large number of media representatives), these rules must be made known already at the point of entry to the building.

According to Act No. 211/2000 Coll. on free access to information, courts provide information relating to the work and organisation of the court, excluding information that is classified under the law, and information relating to court proceedings and decision-making of the courts (which is provided for in the rules governing court procedures).

Freely available information includes information about the schedule of the court, its organisation and structure, the list of judges and lay judges in individual divisions, the list of experts and interpreters, the list of bankruptcy trustees, notaries, lawyers, statistical data, information about the court budget, the time and form of establishment of the court, the list of regulations governing the procedures and the decision-making of the court, the list of court fees.

The description of the forms in which information can be accessed indicates the channels through which information can be requested (in person, in writing, by e-mail, by phone), and the way in which information is provided, time limits, fees, where and within what time limit can the decision on denying access to information be challenged. This information is posted in the court entrance hall (and on the website, where available), or in another place as specified.

According to Section 50 paragraph 3 of Act No. 757/2004 Coll. on courts, anybody has the right to view the court schedule, and make excerpts and copies. Court schedule must be posted in a place which is easily accessible by the public, depending on the layout of the given court, and excerpts from and copies of the schedule can be made upon request.

An information board in the court entrance hall gives the numbers and respective floors of all courtrooms, court management offices, and of all the offices that are open to public. Lists of all hearings to be held on the given day are posted in the entrance hall and before every courtroom. The courts are recommended to post the lists of hearings one week in advance, unless there are objective reasons to the contrary (such as shortened time limit agreed by parties to the proceedings).

At this time, Slovak courts at all levels are gradually introducing the court management system. After it has been fully introduced in the entire court system, dates of hearings will be automatically published on the websites of courts. Public

relations officers in court entrance halls will provide all information that is accessible to the public.

The courts are recommended to actively provide information especially concerning the cases that are followed by the public as well as those that are expected to raise media interest. Information about the dates of hearings and the form of decisions in specific cases is provided by courts to anybody (parties to the proceedings, general public, media) upon requests made in person, in writing, by phone, by e-mail, or by fax.

Hearings are held in public, except for those conducted by notaries or court commissioners. Entire hearings or their part may be closed to the public only if public hearing of a case would violate the protection of classified data or business secrecy, important interests of parties to the proceedings, or morality.

Even in case of public hearings, courts may deny access to minor children or persons who may be reasonably expected to impair the dignity of the proceedings.

Judgments and grounds of decisions are always pronounced in public (even in case of closed hearings).

Information about the current status of the proceedings can only be provided by court spokespersons, or by presidents of courts, or by judges hearing the case. This information is reduced only to such facts as adjournment of the hearing and reason for adjournment, procedural steps taken (or to be taken) by the court, etc.

No comments are offered concerning the matters that are pending or that have not been finally concluded. Expression of one's opinion could be detrimental to independence and impartiality of the court. The court presents its position on a matter through pronouncing the verdict and giving the grounds for its decision.

The names of parties and witnesses are available within the scope of information that is allowed with respect to the hearing, decision-making method, and the current status of the proceedings.

According to Section 8a of the Code of Criminal Procedure, criminal justice authorities inform the public about their activities through informing the media. In doing so, they take care not to jeopardize the clarification of the facts that are relevant for adjudicating the case, and not to publish information about the parties to criminal proceedings, or data that are not directly related to the crime. In such cases, the provision of information may be denied. The decisions about providing information are taken on a case-by-case basis, and fall within the remit of presiding judges of panels, president of courts, or spokespersons.

Given the need to respect the presumption of innocence in criminal proceedings, persons charged with a crime or defendants must be looked upon as innocent until the final sentencing decision has been issued (in these cases, provision of information may be denied). It means that the provided information must not give the impression that the person has actually committed the criminal offence. It must specify whether charges were brought against the person or whether the person has been formally accused.

Where giving full names in connection with criminal proceedings, it is always necessary to precisely specify the procedural status of the party to the proceedings (a suspect, a person charged with a criminal offence, a defendant, a sentenced person). Depending on the nature of the case and the status of the party, initials of the first name and surname of parties may be used to protect their personal rights.

Court files are accessible to parties to the proceedings and their legal representatives. As regards third parties that may hold legal interest in the case or the media, the access decision will always be made by the competent judge.

In harmony with Act No. 211/2000 Coll. on Information, it is possible to restrict the provision of information related, in particular, to the protection of classified data, protection of personality and personal data, protection of business secrecy or other facts as provided by law.

In searching for and disseminating information it is necessary to respect fundamental rights and freedoms that are irrevocable, inalienable and imprescriptible (Article 12 of the Constitution of the Slovak Republic), which also include the right to human dignity, personal honour, reputation, protection of one's name, protection from unlawful interference with private and public life and from unlawful gathering, publication or misuse of information about a person.

The above indicates that there is a difference between gathering information and its dissemination. In case of hearings held in public, the public may be informed about everything that transpires at the hearing. This does not, however, automatically imply the right to disseminate and publish all information without restriction.

When exercising the right to the provision and dissemination of information, it is always necessary to harmonise, in the specific case, the exercise of two rights – the right of the public to information, and that of the persons concerned to the protection of their individual rights. In case of public officials, their protection against the publication of information is lower, since they are subject to public scrutiny; on the other hand, a higher degree of protection is offered as regards the right of a person to private life.

The exercise of the right to information in relation to the Slovak judiciary is fostered also by means of professional publications that expand the commonly available information about the judiciary, accessible not only to the professional community, but also to the general public. The Ministry of Justice of the Slovak Republic thus publishes the professional journal '*Justičná revue*' (Justice Review), and the Supreme Court of the Slovak Republic publishes its decisions and opinions in the 'Collection of Opinions of the Supreme Court and the Decisions of Courts of the Slovak Republic'. Mention should be made also of the increasing use of electronic media in the provision of information (the websites of the Ministry of Justice and of individual courts).

The right to information in the Slovak Republic is guaranteed under the Constitution and the laws. In our opinion, Council of Europe recommendations (Rec(2003)13, Rec(2002)2) and international conventions are adequately implemented in our legal system by means of applicable and effective laws on free access to information (Act No. 211/2000 Coll.), on the protection of personal data (Act No. 428/2002 Coll.), by the provisions of the Code of Civil Procedure and the Code of Criminal Procedure, by the law on judges and lay judges (Act No. 385/2000 Coll.), and by the law on broadcasting and retransmission (Act No. 308/2000 Coll.), as well as a new Act No. 757/2004 Coll. on courts that entered into effect on 1st April 2005.

In Bratislava, April 2005

JUDr. Milan Karabín
President of the Supreme Court
of the Slovak Republic